

Exhibit 5

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MELINDA SGARIGLIA,)
)
)
Plaintiff,)
)
)
V.) NO. 1:19-CV-05684
)
)
AMERICAN INTERNATIONAL)
RELOCATION SERVICES, LLC,)
D.B.A. AIRES, AN ILLINOIS)
LIMITED LIABILITY CORPORATION,)
NICHOLAS GONRING & KELLY)
GONRING,)
)
)
Defendants.)

Zoom Videoconference Deposition of KIRK
LANGEFELD taken before TRUDY G. GORDON, a Certified
Shorthand Reporter, pursuant to the Federal Rules of
Civil Procedure for the United States District Courts,
pertaining to the taking of depositions, commencing at
1:00 p.m. on the 23rd day of February, A.D., 2023.

Job No. CS5760610

Page 2

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REPORTED BY: TRUDY G. GORDON, C.S.R.

CERTIFICATE NO. 084-004077

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2 I N D E X
3

4 WITNESS: PAGE:
5 KIRK LANGEFELD
6

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10 DEPOSITION EXHIBITS	DESCRIPTION	PAGE
11 EXHIBIT NO. 2	6-14-2018 LETTER	16
12 EXHIBIT NO. 3	6-18 LETTER	19
13 EXHIBIT NO. 4	6-22 LETTER	21
14 EXHIBIT NO. 5	ATTORNEYS' TITLE	21
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15 EXHIBIT NO. 6	7-2-LETTER	25
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16 EXHIBIT NO. 7	JULY 5 LETTER	26
17 EXHIBIT NO. 18	GONRING 000123	39
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18 (No Exhibits Retained by the Reporter)
19
20
21
22
23
24

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1 (WHEREUPON, THE WITNESS WAS

2 DULY SWORN.)

3 MS. McAULIFFE: Good afternoon. My name is
4 Caitlin McAuliffe, and I represent American
5 International Relocation Solutions. I just gotta ask
6 you a few questions.

7 THE WITNESS: Sure.

8 KIRK LANGEFELD,
9 called as a witness herein, having been first duly
10 sworn, was examined and testified as follows:

11 EXAMINATION

12 BY MS. McAULIFFE:

13 Q. Can you please state your name for the
14 record.

15 A. Kirk Langefeld.

16 Q. Let the record reflect this is the discovery
17 deposition of Kirk Langefeld taken pursuant to notice
18 and scheduled to today's date by agreement of the
19 parties. This deposition will be taken in accordance
20 with all applicable rules.

21 Have you ever been deposed before?

22 A. No.

23 Q. All right. So to start I'm just going to go
24 over a couple grounds rules for the record and both for

Page 6

1 your own benefit. So the first is that we have to let
2 each other finish even if we can anticipate the question
3 or the answer, so please wait until I'm done asking the
4 question before you provide your answer. If you don't
5 understand the question or would like the question
6 clarified, please let me know and I'll be happy to
7 provide a clarification, and it's okay to say I don't
8 know if you don't know. And we have a court reporter
9 here that's on Zoom with us that will be taking down
10 everything for the record. So for a yes-or-no answer,
11 please make sure you say yes or no. There's no nodding
12 or uh-huhs or shrugging because the court reporter can't
13 take that down. If you need to take a break, just let
14 us know and we can certainly take a break. The only
15 rule is you can't take a break while a question is
16 pending. So just answer the question and then we can
17 take a break after that.

18 A. Okay.

19 Q. Do you have any questions for me?

20 A. Nope.

21 Q. Okay. So let's get started.

22 Where are you while we're taking this
23 deposition right now?

24 I'm in my office in Hinsdale, Illinois.

1 Q. And and what is your date of birth?

2 A. 9-18-79.

3 Q. Where do you currently live?

4 A. Oak Park, Illinois.

5 Q. What's your address in Oak Park?

6 A. 711 North Grove.

7 Q. Okay. And is that in Chicago?

8 A. No, that's in Oak Park.

9 Q. In Oak Park. Sorry.

10 And does anyone live there with you?

11 A. Yes, my wife and three kids.

12 Q. Great. Now, just some backgrounds questions.

13 What's your highest level of education?

14 A. I have a law degree.

15 Q. Where did you go to law school?

16 A. Chicago-Kent.

17 Q. And where did you attend undergrad?

18 A. University of Illinois in Champaign.

19 Q. When did you graduate from law school?

20 A. 2004.

21 Q. When did you receive your law degree?

22 A. Uhm.

23 Q. Sorry.

24 When did you take the bar and become licensed?

1 A. 2004.

2 Q. Okay. Are you licensed in Illinois?

3 A. Yes.

4 Q. Are you licensed to any other state?

5 A. No.

6 Q. So how long have you been an attorney?

7 A. Since 2004.

8 Q. So about almost 20 years now?

9 A. Correct. Yes.

10 Q. And where did you first start working when got
11 out of law school?

12 A. A firm called Ash Anos Freedman & Logan.

13 Q. What kind of work did you do there?

14 A. It was mostly law clerk type of work.

15 Discovery. You know, digging through boxes. Filings.

16 Recordings. I did some real estate closings.

17 Q. And where did you -- And how long did you work
18 there?

19 A. About a year.

20 Q. Okay. And where did you go after that?

21 A. Another firm called Eckhart Kolak.

22 Q. And what type of work did you perform at that
23 firm?

24 A. Corporate work, estate planning, and real

1 estate.

2 Q. And how long were you there?

3 A. I would say like 3 years.

4 Q. And where did you go after that?

5 A. I was out on my own for a couple years after
6 that. I worked for -- I owned a company that did
7 corporate catering.

8 Q. Okay. And was that legal work or was it more
9 business work?

10 A. I was doing legal work as well, not
11 necessarily for business. It was mostly business work
12 for that. I was there under five years.

13 Q. And where did you go after you left that job?

14 A. Hawbecker & Garver, where I am now.

15 Q. What year did you start at Hawbecker & Garver?

16 A. I -- I think 2013.

17 Q. Okay. So it's been around 10 years you've
18 been working there?

19 A. About 10 years. I think this year is 10
20 years. Yeah.

21 Q. So we heard from Tom earlier that your firm
22 does real estate and trusts and estates.

23 Is it your understanding that your firm does
24 anything else or do they focus on those two areas?

Page 10

1 A. Just those two areas.

2 Q. And do you have a specialty?

3 A. Most of my practice is residential real
4 estate.

5 Q. Okay. Do you usually represent buyers or
6 sellers or a good mix?

7 A. It's a mix.

8 Q. Is most of the real estate you're helping buy
9 and sell located in Illinois?

10 A. All of it is.

11 Q. All of it?

12 A. We are not licensed outside of the state.

13 Q. Okay. And how many real estate closings would
14 you say that you've done?

15 A. I would say -- I'm trying to do the math.

16 Probably 5000-ish, you know, that I've been involved in
17 or more.

18 Q. And all residential real estate closings?

19 A. The -- Primarily some, you know, commercial
20 condos or commercial buildings, but not any real
21 business connection to that. So primarily residential.

22 Q. Have you done any residential real estate
23 closings with relocation companies before?

24 A. Yes.

Page 11

1 Q. How many would you say approximately have you
2 done?

3 A. A hundred or so. Maybe a little bit less.

4 Q. Okay. When did these occur? Just over the
5 course of your career?

6 A. Right.

7

8 Q. Was there a particular time frame? Okay.

9 Do you remember any of the lawyers that you
10 worked with when you were doing the relocation company
11 closings?

12 A. Not offhand. Well, I shouldn't say -- There's
13 one -- There's one that I remember, yes.

14 Q. Okay. And who is that?

15 A. Joe Maselli.

16 Q. Okay. So you never have worked with Sarah
17 Wilkins before?

18 A. I don't know.

19 Q. Right.

20 A. I don't recall. That I should say.

21 Q. Okay. What's your understanding of how a
22 closing process works when there's a relocation company
23 involved?

24 A. Can you restate it. Or what do you mean?

Page 12

1 That's pretty broad.

2 Q. Yes.

3 So we heard from Tom that -- he said typically
4 the buyer will execute a deed to the seller -- or to the
5 relocation company, and then the relocation company will
6 execute a second deed that goes to the eventual buyer.

7 Do you think -- Is that how you understand it
8 typically works?

9 A. When you say the buyer, who do you mean? Who
10 executes the deed?

11 Q. Okay. So his understanding that we heard
12 earlier today is that there's typically two deeds at
13 closings; one that goes from the first seller to the
14 relocation company would be one deed, and then the
15 second deed would be from the relocation company to the
16 eventual buyer?

17 A. That's pretty typical.

18 Q. Okay. Have you ever been involved in a
19 closing where that didn't happen --

20 A. Yes.

21 Q. -- with a relocation company?

22 And are you familiar with the Illinois
23 Residential Real Property Disclosure Act?

24 A. Yes.

Page 13

1 Q. And do you know -- Is it your understanding
2 that relocation companies are immune under that act?

3 A. I believe so, yes. I don't --

4 Q. Okay. So we're here today to talk about the
5 purchase of a condo by your client at the time, Melinda
6 Sgariglia, and the condo is 2726 West Cortez Street,
7 Unit 1, located in Chicago.

8 When did you first learn about this case?

9 A. I think it was a couple years back.

10 Q. And how did you hear about it?

11 A. Someone had asked, either -- I think it
12 was they asked for some of our file, if I remember
13 right.

14 Q. Do you know who it was that asked for the
15 file?

16 A. I don't recall. I didn't look it up.

17 Q. Did you review anything in preparation for
18 your deposition today?

19 A. I looked at the file.

20 Q. Okay. What did you take a look at in the
21 file, if you remember?

22 A. I looked at -- We were trying to figure out
23 who was at the closing, so we dug through that, and then
24 I looked at the -- some of the Attorney Review Letters

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1 and the contract.

2 Q. And do you remember who was at the closing?

3 A. We -- I don't actually remember. But from
4 what we've seen, we think it was Paul Garver.

5 Q. Okay. Did you speak to anyone? It sounds
6 like you spoke to Tom, maybe, before the deposition
7 today about the case?

8 A. Um-hum. Yeah. And --

9 Q. And did you speak -- Go ahead.

10 A. I spoke with Carol as well.

11 Q. And what did you talk about with them?

12 A. Just about the case. It's a little broad to
13 repeat everything. But --

14 Q. Was it -- Did you go over anything together,
15 any documents?

16 A. We talked about the attorney review. By going
17 over it, I do not believe, you know -- We didn't
18 specifically look at it together or anything like that.
19 But we did talk about it.

20 Q. And did you speak to Melinda, your former
21 client, about this deposition or before this deposition?

22 A. She was on one of the calls. We spoke a
23 little bit.

24 Q. So when did that call take place?

Page 15

1 A. Like two days ago. It was either two or three
2 days ago. I don't remember exactly.

3 Q. And did you talk specifically about the
4 litigation or was it more reviewing what had happened at
5 the time of the purchase contract and the closing?

6 A. Little bit of both.

7 Q. What did you talk about in regards to between
8 the purchase contract and the closing?

9 A. Can you clarify.

10 Q. Yes. So I'm just wondering what subject
11 matter, what -- was there any specify topic that you
12 discussed about any events that happened in 2018?

13 A. When -- You're saying when I spoke with Carol
14 did we talk about any specify event from 2018? Sorry.

15 Q. Yes.

16 A. I'm sorry to keep asking. Again, I want to be
17 clear without trying to just repeat the entire
18 conversation. Can you say it one more time what you
19 want me to answer.

20 Q. Yes. Well, and it's totally fine to ask for
21 clarification. I want to make sure you understand the
22 question that I'm trying to ask.

23 A. Yeah.

24 Q. So I just was trying to ask when you spoke to

Page 16

1 Carol two days ago, did you speak about the
2 correspondences that was going on between you and the
3 closing attorney or -- What did you talk about?

4 A. Yes, we spoke about the correspondence
5 letters, the -- Yes. That's what we spoke about.

6 Q. Okay. And did she tell you about her position
7 in the case or go over any of the present case details
8 with you?

9 A. Yes.

10 Q. And now if you have the letters that I was
11 discussing, I'd like to go over some of those Attorney
12 Review Letters. You mentioned that you went over them
13 before, but I'm going to pull them up just so that we
14 can all have them to reference.

15 A. Please do because I won't remember them
16 probably now.

17 Q. So if you'll see here, this was previously
18 marked as Exhibit 2 in the earlier deposition that we
19 took. This is a June 14th letter from Thomas Hawbecker
20 to Ms. Wilkins.

21 Do you remember seeing this letter?

22 A. Yes.

23 Q. Did you ever see this letter in June of 2018?
24 Or when did you first go over this letter?

Page 17

1 A. Yes, I'm sure that I did. I mean I -- I can
2 say I don't specifically recall. But I'm sure I did in
3 2018.

4 Q. Okay. And would you have participated in
5 writing this letter or would Tom have written this
6 letter?

7 A. I can't say for sure. But I would say yes.
8 You know, it would be -- It would have been rare if I
9 didn't participate in writing.

10 Q. And you mentioned before you weren't sure if
11 you had ever heard of Ms. Wilkins before.

12 But you obviously in this case knew that she
13 was AIRES' closing attorney, right?

14 A. Yes.

15 Q. So what's the purpose of this initial letter
16 that you sent to Ms. -- that Mr. Hawbecker and you sent
17 to Ms. Wilkins?

18 A. The purpose --

19 Q. I can give you a moment -- Sorry. I was going
20 to say I can give you a moment to go over it if you'd
21 like me to scroll through the letter.

22 A. Generally I can say the purpose is to modify
23 the contract to benefit our clients.

24 Q. Okay. So what information was asked in this

Page 18

1 letter that Hawbecker and you wrote together?

2 I can let you review it, if you'd like.

3 A. Well, right, I can tell you -- Generally I can
4 think -- I mean I can read every line about what
5 information. Do you have a more specify question?

6 Q. Yeah, so I guess generally what type of
7 information were you looking for in this initial letter?

8 A. Well, if you want to scroll down, I mean I
9 think I know -- Are you referring to the request
10 regarding in Paragraph 8 and 9?

11 Q. Yes. Yes.

12 A. All right. So exactly the information that we
13 are seeking. When you're asking for information, that's
14 what -- that's what it would be.

15 Q. So you're referring to please verify that the
16 Condo Association has not experienced any instances of
17 water interiorly, exteriorly, seeping through property,
18 and/or any damage during seller's ownership of the
19 property. For any such occurrences, please provide
20 dates, locations, damage, and any repairs made, right?

21 A. Okay.

22 MS. OSHANA: Just to clarify that you're reading
23 the letter. Thank you.

24 MS. McAULIFFE: Yes.

Page 19

1 BY MS. McAULIFFE:

2 Q. So and then in Section 9 of the letter, it
3 also reads, seller represents in words that the
4 following are true and shall remain true at the time of
5 their losing. Sellers have not made any insurance
6 claims within the last 5 years, right?

7 A. Correct.

8 Q. Is it typical to ask sellers these questions
9 in the initial letter that you send them?

10 A. Yes.

11 Q. And why is it important to ask these
12 questions?

13 A. To get the information because this is
14 important information to know about a property before
15 you purchase it.

16 Q. And now I'd like to turn to what was
17 previously marked as Exhibit 3. This is the June 18th
18 letter where it's Ms. Wilkins responding to
19 Mr. Hawbecker.

20 And have you seen this document before?

21 A. Yes.

22 Q. All right. And now I'd like to turn to her
23 response to the questions that I just read from the
24 previous exhibit. And her answer for Number 8E says as

Page 20

1 a third-party corporate relocation company, seller is
2 unable to make verifications regarding whether the
3 property has experienced water leaking or water damages.
4 However, seller agrees to abide by the terms of the
5 buyer's duty to inspect (inaudible) section of the
6 AIRES' addendum with respect to possible leak, seepage
7 or water infiltration at the property as seller would
8 have no knowledge of such matters unless raised during a
9 home inspection process, right?

10 A. Yes.

11 Q. And then in answer to 9A, Sarah writes, as a
12 third-party corporate relocation company that has never
13 occupied the property, seller is unable to make
14 representations or warranties regarding whether
15 insurance claims have been made against the property as
16 seller would have had no knowledge of such matters,
17 right?

18 A. Yes.

19 Q. Okay. So we'll see that AIRES said multiple
20 times that it's a third-party corporate relocation
21 company.

22 What did you think when you read that?

23 A. That they have never occupied the property.

24 Q. Was that a cause of concern for you?

Page 21

1 As a response, yes.

2 Q. And it -- I'd like to turn now to your
3 response which I believe was previously marked as
4 Exhibit 5. It is the response that you sent on
5 June 22nd. I'll scroll down.

6 So you actually signed it, signed this letter,
7 right?

8 A. Right.

9 MR. McCARTHY: Just to let you know, I think that's
10 Exhibit 4. I think Exhibit 5 is the Title Commitment,
11 so the record is clear.

12 MS. McAULIFFE: Thank you.

13 MR. McCARTHY: You're welcome.

14 BY MS. McAULIFFE:

15 Q. So you prepared the responses to Ms. Wilkins?

16 A. Yes.

17 Q. Did anyone help you prepare those responses?

18 A. I don't recall.

19 Q. Does -- Do you usually send out the responses
20 with other attorneys' input or can you usually respond
21 on your own?

22 A. I can and usually respond on my own.

23 Q. Okay. So it's not required for anyone to
24 review your responses?

1 A. No.

2 Q. And in this instance --

3 A. Well -- It's not required for another attorney
4 to review my response.

5 Q. Yes. Okay.

6 Do you review the responses that you draft
7 with your client before responding?

8 A. Typically, yes.

9 Q. In this case is that what you did?

10 A. I believe so. I don't -- I didn't look back
11 to see if we had e-mailed. But yes. I would say yes.

12 Q. So now turn to the same questions that we were
13 looking at on the other two. 8E. You wrote on this
14 response, please confirm the same with the prior owner
15 as the seller has direct contact with the prior owner,
16 right?

17 A. Yes.

18 Q. And you gave the same answer to 9A, please
19 confirm the same with the prior owner as the seller has
20 direct contact with the prior owner?

21 A. Yes.

22 Q. Okay. So you were the one that wrote prior
23 owner, right?

24 A. Yes.

1 Q. Did you discuss with anyone before you put
2 down prior owner?

A. What do you mean?

4 Q. When you selected the term prior owner, had
5 you brought that up as a potential issue or is that just
6 your understanding of the situation?

7 A. Well, they referenced -- What do I say -- I'm
8 trying to see their response -- I don't -- I don't
9 really recall. I just know -- You know, they're saying
10 does not know. So who does know?

O. Okay. And who did you mean by prior owner?

12 A. The -- Well, in any case I know their name
13 now. It's the Gonrings in this case.

14 O. At the time you didn't know their name?

15 A. I don't believe so. I may have -- It may have
16 been written somewhere. But I don't -- I don't remember
17 it specifically. But that's who I would have -- I think
18 that's who I would have meant.

19 Q. Okay. And I'd like to turn your attention to
20 what was marked Exhibit 5 which was the Title Commitment
21 that you received.

Do you recognize this Title Commitment?

A. I recognize it as a Title Commitment, yes.

Q. Did you review this Title Commitment in this

Page 24

1 case?

2 A. I'm sure that I did if it was provided to us,
3 which I'm sure it was.

4 Q. Okay. And on Line 4 of the Schedule A it says
5 the title is as of the commitment date vested in
6 Nicholas Gonring and Kelsey Gonring, husband and wife as
7 tenants by the entirety, right?

8 A. Um-hum. Yes.

9 Q. So if you had reviewed the Title Commitment,
10 you would have known that -- you would have thought that
11 the prior owners were the Gonrings?

12 A. Correct.

13 Q. When you refer to prior owners, that's who you
14 would have been referring to?

15 A. Correct.

16 Q. Okay. Who did you understand to be the
17 current owners when you sent this Exhibit 4, June 22nd
18 letter?

19 A. AIRES.

20 Q. And was that a mutual understanding between
21 you, your clients, and Mr. Hawbecker?

22 MR. McCARTHY: Object to form, foundation.

23 BY MS. McAULIFFE:

24 Q. You reviewed this letter with your clients

Page 25

1 before you sent it out, right?

2 A. I believe so.

3 Q. Okay. So you both thought that -- You both
4 agree to the use of prior owner, right?

5 MR. McCARTHY: Same objection.

6 MS. McAULIFFE: You can answer when they object.

7 THE WITNESS: Sorry. Repeat. Can you repeat.

8 BY MS. McAULIFFE:

9 Q. Yeah, so you and your clients both agreed to
10 the use of prior owner?

11 A. Yes.

12 MR. McCARTHY: Object to foundation.

13 BY MS. McAULIFFE:

14 Q. So now I'd like to turn to what's been
15 previously marked as Exhibit 6, and this is -- It
16 combines the July 2nd letter from Ms. Hawkins and your
17 response that was provided on July 3rd.

18 So you signed this document, right?

19 A. Yes. Did you say Exhibit 6 or Exhibit 5?

20 Q. This is 6. Sorry. The Title was 5. You can
21 ignore the labels. Yeah, you can ignore the labels.
22 For the record, it's what we say it is.

23 A. Okay. Go ahead and repeat.

24 Q. So you signed this letter?

1 A. Correct. Yes.

2 Q. And have you seen this letter before?

3 A. Yes.

4 Q. And did you also prepare the responses for
5 this letter?

6 A. I believe so, yes.

7 Q. Okay. And same as the other one, you can send
8 letters out without them being reviewed, right?

9 A. By another attorney, yes.

10 Q. And do you recall reviewing your answers or
11 discussing your answers with any other attorney?

12 A. I don't recall, no.

13 Q. But you would have showed this to your clients
14 before sending it out?

15 A. Yes.

16 Q. All right. So, again, turning to the favorite
17 question. In this one -- So Sarah repeats in her
18 response, With respect to Item E again as a third-party
19 corporate relocation company, seller is unable to make
20 verifications regarding whether the property has
21 experienced water leaking -- leakage or damage.

22 However, seller agrees to abide by the terms of the
23 buyer's duty to inspect section of the AIRES' addendum
24 with respect to possible leak, seepage or water

1 infiltration at the property as seller would have had no
2 knowledge of such matters unless raised during a home
3 inspection process when the information was reported in
4 the Residential Real Property Disclosure Report or other
5 homeowner-provided disclosures make no mention of water
6 infiltration issues within the property, right?

7 A. Yes.

8 Q. Okay. And you said okay to that, right?

9 A. Right.

10 Q. So it seems like you agreed that that was okay
11 that they couldn't make the disclosures, right?

12 A. Yes.

13 Q. They couldn't make any representations or
14 warranties?

15 A. Right.

16 Q. And then for 9A, same thing, you also said,
17 okay, when Sarah said, seller is unable to make
18 representations or warranties regarding whether
19 insurance claims have been made against the property as
20 seller would have no knowledge of such matters, right?

21 A. Right.

22 Q. And you said okay to that again?

23 A. Right. Yes.

24 Q. Now, why would you agree to those matters if

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1 they said they had no knowledge if it's important to get
2 the information?

3 A. Well, you can only ask something so many times
4 at some point. So I could keep asking or not, and I
5 would just keep getting the same answer.

6 Q. Right.

7 And did you go out and get the information
8 from anyone else?

9 A. I'm -- No, not particularly. I'm not sure
10 what are you referring to though? Who else would I get
11 that information from?

12 Q. Did you ever speak to the Gonrings about the
13 information?

14 A. No. No. I would have no right to speak to
15 them.

16 Q. Did you -- And why do you think you didn't
17 have a right to speak to them?

18 A. They're not involved in the transaction, as
19 far as I know.

20 Q. But there's nothing preventing you from
21 seeking them out and asking them these questions, was
22 there?

23 A. Well, I don't know if they are represented by
24 counsel and something else. I wouldn't -- I wouldn't

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1 contact them directly, no. I wouldn't try to do that.

2 Q. Did you ever ask Sarah Wilkins if they were
3 represented by counsel?

4 A. No.

5 Q. And you didn't ask her for their contact
6 information or anything, right?

7 A. Correct.

8 Q. Okay. So you mentioned earlier that you had
9 done about a hundred relocation closings?

10 A. Um-hum.

11 Q. And did you ever talk to the sellers in any of
12 those situations?

13 A. No.

14 Q. And why not?

15 MS. OSHANA: I'm going to object to form.

16 BY THE WITNESS:

17 A. You know, I just didn't. I don't know why.

18 BY MS. McAULIFFE:

19 Q. Had you received -- Have you ever received
20 similar responses from a relocation company saying they
21 don't have knowledge of certain information or certain
22 warranties that you wanted made?

23 A. Yes.

24 Q. And what do you typically do in that

1 situation?

2 A. Similar to what I did here, push for that
3 information as best I can, and see what their responses
4 are.

5 Q. And do they typically provide those responses?

6 A. Sometimes we get more information than others,
7 just like any other seller.

8 Q. Okay. But in this particular situation, you
9 didn't receive that information, right?

10 A. You can see what I received.

11 Q. Okay. I'd like to just turn to the last
12 letter, just for completeness, that we had. It was
13 marked previously as Exhibit 7. So this is a letter
14 dated July 5th, and it's just a letter from Sarah
15 Wilkins to, again, Mr. Hawbecker at your firm.

16 Do you remember looking at this letter?

17 A. Not specifically, but I'm sure I did.

18 Q. Okay. If it was in the file you would have
19 looked at it, right?

20 A. Right.

21 Q. Okay. And so she sent you also the Addendum
22 to Purchase and Sale contract.

23 Was that signed and executed after this?

24 A. I would assume it was.

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1 Q. So was there any other letters that you had
2 with Sarah Wilkins that we didn't go over today?

3 A. I don't recall.

4 Q. In all of these letters we talked about the
5 information and how AIRES said they couldn't provide the
6 information but they did answer some questions.

7 So where did you think they were getting this
8 information?

9 A. I don't know.

10 Q. Did you ever ask them where they were getting
11 the information?

12 A. No, that really wouldn't -- No.

13 Q. Okay. And did you -- Were you aware that
14 AIRES wasn't occupying the building at the time of --

15 A. I believe they said they weren't occupying.
16 So yes.

17 Q. So you stated that you went over these letters
18 before you sent the response with Melinda, right?

19 A. She had had an opportunity to review them,
20 yes.

21 Q. Okay. And so you were passing along just the
22 information so she could determine whether she wanted to
23 take certain risks or not with purchasing the property,
24 right?

1 A. I was passing along so she could review it and
2 then we could discuss if necessary.

3 Q. Okay. And she ended up ultimately purchasing
4 the property, right?

5 A. Yes.

6 MS. McAULIFFE: All right. That's all the
7 questions I have for right now. I might have some
8 follow-up afterwards. But I'd let whoever else would
9 like to speak go right ahead. Thank you.

10 THE WITNESS: Thank you.

11 MS. OSHANA: Paul, are you going next?

12 MR. McCARTHY: Yeah. I don't see a need to reask
13 all of the same questions to this witness of what
14 Mr. Hawbecker identified in the file.

15 Does anyone else feel differently about that?

16 MR. GOOD: I do not.

17 MR. McCARTHY: Carol?

18 MS. OSHANA: I'm sorry. When you say identified in
19 the file, can you just say what you're saying. I didn't
20 get that.

21 MR. McCARTHY: Well, we went through the documents
22 in the file. We marked them as exhibits. I'm not
23 feeling the need to go spend the same -- go re-tread the
24 same tire we've already dealt with with Tom.

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1 MS. OSHANA: Yeah, that's up to you. I have some
2 questions, so you go ahead and do your thing.

3 MR. McCARTHY: Okay.

4 EXAMINATION

5 BY MR. MCCARTHY:

6 Q. Can I call you Kirk?

7 A. Kirk.

8 Q. Kirk?

9 A. Yeah.

10 Q. So, Kirk, did a significant amount of your
11 experience in the real estate area come from working
12 with Mr. Hawbecker?

13 A. Yes.

14 Q. Do you look up to him a bit as a mentor in
15 this practice area?

16 A. Yes.

17 MR. McCARTHY: That's it. I don't -- I'm confident
18 I don't need to go ask Kirk all the same questions I
19 already asked Tom.

20 Thank you.

21 THE WITNESS: Okay.

22 MS. OSHANA: I have a question.

23

24

1

EXAMINATION

2

BY MS. OSHANA:

3

Q. So I just want to clarify.

4

With these Attorney Review Letters, sometimes you and Tom work together and sometimes you don't? Is that how it goes? Or do you --

5

A. Yeah, sometimes we work together. Sometimes we don't. We always have the ability to work together.

6

Q. And with these --

7

A. If that makes sense.

8

Q. With this particular Attorney Review Letters that we're discussing, you don't remember specifically if you did or didn't?

9

A. I don't.

10

Q. So it's possible that Mr. Hawbecker did work on these letters?

11

A. It is possible.

12

Q. Now, with respect to the letter where you said prior owner, which is Exhibit 6, I think. Wait.

13

What is this exhibit right here, Ms. Tucker?

14

MS. McAULIFFE: This is Exhibit 4. I can also give you control of sharing the screen and stop sharing mine so you can point out --

15

MS. OSHANA: It's okay. Just leave this here

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1 because it's easier.

2 MS. McAULIFFE: Okay. Sorry. I'll get it back.

3 There we go.

4 BY MS. OSHANA:

5 Q. So this was Exhibit 4 -- Wait. Is that
6 right?

7 MR. GOOD: Yes, that's correct, it's Exhibit 4.

8 MS. OSHANA: Okay.

9 BY MS. OSHANA:

10 Q. I just wanted to clarify. Mr. Hawbecker had
11 testified that with respect to the word prior owner,
12 please confirm the same with prior owner, it was his
13 understanding that prior owner meant the Gonrings, and
14 he assumed that AIRES was the current owner.

15 Was that your understanding?

16 A. Yes.

17 Q. Now, had you known that the Gonrings were the
18 actual owners and AIRES were not the owners of this
19 property, would you have acted any differently in these
20 Attorney Review Letters?

21 A. I would say no. But it's -- Because my
22 contract was with AIRES, and that's who we were in
23 contact with.

24 Q. Let me ask you this.

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1 If you had known that AIRES' attorneys were
2 communicating directly with the Gonrings, would that
3 have changed anything?

4 A. Yes.

5 Q. Okay. And how?

6 A. I think -- I would have probably continued to
7 push further to say that the Gonrings need to answer
8 these questions.

9 Q. Okay.

10 MS. OSHANA: You can stop the share screen.

11 BY MS. OSHANA:

12 Q. Now is it fair to say that when you received
13 responses from attorneys and the Attorney Review Letters
14 you're relying upon the attorney to tell the truth?

15 A. Yes.

16 Q. Is it fair to say that when you receive
17 responses from attorneys in these Attorney Review
18 Letters that you expect that they will give you full
19 disclosures to the answers that you asked?

20 Sorry. Let me rephrase that.

21 Is it fair to say that with respect to these
22 Attorney Review Letters you expect attorneys to fully
23 disclose information that is in their purview as to
24 these Attorney Review Letters?

1 A. Yes.

2 MR. McCARTHY: Object to form.

3 MS. McAULIFFE: Join in that.

4 MS. OSHANA: Let me try that again.

5 BY MS. OSHANA:

6 Q. When you ask a letter -- When you ask a
7 question in the Attorney Review Letters, you expect the
8 attorney to fully disclose his or her knowledge?

9 A. Yes.

10 Q. Do you rely on that?

11 A. Yes.

12 Q. Do you rely on the truth where -- Do you rely
13 on what you believe to be the truth as to these
14 responses?

15 A. Say it again.

16 Q. Do you rely on the idea that whatever it is
17 the attorney is responding to in the Attorney Review
18 Letter is the truth?

19 A. Yes.

20 Q. So if an attorney is in communication with a
21 party, with an owner, would you expect that attorney to
22 tell you that?

23 MR. McCARTHY: Object to foundation, form.

24 THE WITNESS: Should I still answer?

1 MR. McCARTHY: Yes.

2 MS. OSHANA: Yes.

3 THE WITNESS: Sorry, can you say it again,

4 MS. OSHANA: Let me ask it a different way.

5 BY MS. OSHANA:

6 Q. In this case -- In this file we now know that
7 AIRES was never the title holder of this property on
8 Cortez, you know that, right?

9 A. Yes.

10 Q. Okay. And, in fact, at the end the property
11 was conveyed from the Gonrings to Melinda Sgariglia, the
12 Plaintiff in this case, you're aware of that, right?

13 A. Yes.

14 Q. Okay. And at the time that we were doing the
15 Attorney -- that you were doing the Attorney Review
16 Letters, you had no idea that the Gonrings had input on
17 these Attorney Review Letters, did you?

18 A. Correct.

19 Q. Would that have been important information for
20 you to know?

21 A. Yes.

22 Q. Would it have changed anything?

23 For example, let me give you an example.

24 The Gonrings were aware that it was -- they

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1 were the ones that approved the \$3,000 credit for
2 repairs. The Gonrings approved it.

3 Had you known that, would that have changed
4 the way you approached the issues as to the
5 disclosures?

6 MR. McCARTHY: Object to form and foundation.

7 MS. McAULIFFE: AIRES joins in that.

8 BY THE WITNESS:

9 A. I would say probably.

10 MS. OSHANA: Let me be more specify.
11 I showed this to Tom earlier. I'm showing it to you
12 now. This is Exhibit -- I believe this is Exhibit 18.

13 Is that right, you guys?

14 MR. GOOD: Yes, that is correct.

15 BY MS. OSHANA:

16 Q. July 3, 2018 e-mail, Exhibit 18.

17 Can you see it?

18 A. Yes.

19 Q. Okay. Can you read it?

20 A. Hold on one second. My phone is ringing and
21 I'm getting instant messages. Sorry about that.

22 Okay. You want me to read the e-mail.

23 Q. Yes, please. You can see here it's an e-mail
24 from Kelsey Gonring, who is the -- who was the owner

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1 before my client purchased it, she had formerly
2 purchased it, and she's sending an e-mail to Sarah
3 Wilkins. She's cc'd anyway. And Nick Gonring is cc'd.

4 A. Okay. You want me to read the whole thing?

5 Q. Yes.

6 A. Hello every one. Thank you for looping us in
7 ahead of time given the holiday. Nick and I have
8 reviewed the buyer's response and decided to agree to
9 the buyer's terms, \$3,000 closing credit and 125 tax --
10 percent tax proration outlined in the attached document.
11 To address Item Number 12 stating with respect to Item
12 15 another inquiry has been made with the property's
13 condominium association regarding all the rental
14 restrictions that are in place, and a firm response will
15 be provided. There are no rules or regulations
16 regarding renting of the property. This information can
17 be found in the association documents that are attached.
18 Please provide Nick and I with the necessary
19 documentation to sign at your earliest convenience in
20 order to finalize the sale.

21 Q. Okay. So here it's clear that she says Nick,
22 which is her husband, Nick and Kelsey Gonring are
23 communicating in their agreement as to the closing cost
24 credit and tax proration, right?

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1 MR. McCARTHY: Object to form.

2 BY THE WITNESS:

3 A. Yes.

4 BY MR. OSHANA:

5 Q. Now, does this surprise you?

6 A. Yes.

7 Q. Why?

8 A. Because they have input in the sale in that
9 way.

10 Q. Because you assumed that the Gonrings were no
11 longer the owners, right?

12 A. Correct.

13 Q. This is a July 5 e-mail, Exhibit 19. Can
14 you -- You don't have to read it out loud. Just read it
15 to yourself.

16 A. Okay.

17 Q. Okay. So obviously this is an e-mail from
18 Nicholas Gonring who was the owner of the property
19 before Melinda purchased it, and he's e-mailing his wife
20 and also Terry Wilkins of swilklaw.com. Here, he is
21 saying, is it common for us to have zero contact with
22 the attorneys that are working on our behalf through
23 AIRES?

24 Do you see that?

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1 A. Um-hum. Yes.

2 Q. Okay. Would it be important for you to know
3 that the attorneys are working on the Gonrings' behalf?

4 A. Yes.

5 Q. Okay. And how would that be important to you?

6 A. Because that -- For example, what we're
7 talking about, we would understand that there should be
8 somebody who would answer the questions that we've
9 asked.

10 Q. Okay. And you would have assumed that the
11 Gonrings were not in communication with the attorney and
12 that's why the attorney couldn't get you that
13 information that you were seeking in Paragraphs 8 and 9
14 of your Attorney Review Letter, isn't that correct?

15 MR. McCARTHY: Object to form.

16 BY THE WITNESS:

17 A. Yes.

18 BY MS. OSHANA:

19 Q. Is it fair to say that when you were saying
20 prior owners in the Attorney Review Letters, is it fair
21 to say that the attorney should have told you that the
22 Gonrings are not the prior owners, that they are the
23 current owners?

24 MR. McCARTHY: Object to form and foundation.

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1 MS. McAULIFFE: I'll just join in that.

2 BY THE WITNESS:

3 A. Yeah, I don't know if that's fair to say or
4 not.

5 BY MS. OSHANA:

6 Q. Isn't it fair to say that the attorney should
7 have disclosed to you that she was talking to the
8 Gonrings about your request?

9 A. Yes.

10 MS. OSHANA: Okay. I have nothing further.

11 MR. McCARTHY: I have just one quick follow-up
12 question.

13 EXAMINATION

14 BY MR. McCARTHY:

15 Q. When you were going through the letters back
16 and forth with Sarah, in using the term property, that
17 was a term that was capitalized.

18 Do you recall that?

19 A. Yes.

20 Q. And the capitalized term property ties into
21 the definition in the Purchase Agreement; is that
22 correct?

23 A. Correct.

24 MR. McCARTHY: All right. That's all I have.

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1 Thank you.

2 MR. GOOD: I have no questions for this witness.

3 MS. McAULIFFE: I have just a few follow-ups. Also
4 it will be brief.

5 EXAMINATION

6 BY MS. McAULIFFE:

7 Q. So why did you assume that the Gonrings
8 weren't the owners anymore?

9 A. Because we had a contract with AIRES.

10 Q. But did you ever ask AIRES who the current
11 owners were?

12 A. No.

13 Q. Did you ever ask AIRES for title?

14 A. I assume at some point, yes, we asked for
15 title. I'm sure we would have gotten it.

16 Q. Did you ask -- Let me be more specify.

17 A. Sure.

18 Q. Did you ask AIRES if they had the title or had
19 possession of the title?

20 A. Do you mean -- Not to ask you a question. But
21 you mean the -- was the property deeded to them, is what
22 you're saying.

23 Q. Yes.

24 A. Yes. No, I did not ask that.

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1 Q. Do you typically ask relocation companies who
2 the deed is in --

3 A. No.

4 Q. -- whose name the deed is in?

5 And -- So when the relocation company in
6 general, in your experience, signs the contract, you
7 don't know who has the title until you show up at
8 closing, right?

9 A. Correct.

10 Q. And just one last question.

11 Did anyone tell you that you couldn't contact
12 the Gonrings, directly?

13 A. No.

14 Q. And did you ever tell your client that she
15 couldn't contact the Gonrings directly?

16 A. I don't think so. If I -- If asked, I may
17 have said that. But I don't -- I don't know.

18 Q. Okay. And in her deposition she said that she
19 was told that she couldn't contact the Gonrings,
20 directly.

21 MS. OSHANA: Objection as to mischaracterizing the
22 testimony. Go ahead.

23 THE WITNESS: Is there a question --

24 MS. OSHANA: Also attorney-client privilege.

1 Attorney-client privilege.

2 MR. McCARTHY: It's not privileged if she said it.

3 MS. OSHANA: Paul, I'm sorry, I didn't hear what
4 you said. What did you say?

5 MR. McCARTHY: I'm just saying it's not privileged
6 if that's what Melinda said at her deposition.

7 MS. OSHANA: Yeah, but I don't believe that she
8 did. Until you pull out the deposition and show me,
9 it's privileged.

10 MR. GOOD: I believe the witness already answered
11 the question, making this moot.

12 MS. McAULIFFE: Okay. I'll just rephrase the
13 question.

14 BY MS. McAULIFFE:

15 Q. So you don't remember telling Melinda that she
16 couldn't contact the Gonrings, right?

17 A. I don't recall.

18 MR. McCARTHY: Again, same objection.

19 MS. McAULIFFE: Okay. All right. That was all the
20 questions I have if no one has any follow-up.

21 MR. GOOD: I have nothing for this witness. Thank
22 you for your time, sir.

23 MS. OSHANA: Thanks, Kirk.

24 MR. McCARTHY: Thanks, Kirk.

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1 Hey, the only question I have is, before we
2 go, and we can go off the record for this discussion.

3 (WHEREUPON, WE WERE OFF THE
4 RECORD AT 1:57 P.M.)

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1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF COOK)
4

5 I, TRUDY GORDON, within and for the County of
6 Cook, State of Illinois, and a Certified Shorthand
7 Reporter of said state, do hereby certify:

8 That previous to the commencement of the
9 examination of the witness, the witness was duly sworn
10 to testify the whole truth concerning the matters
11 herein;

12 That the foregoing deposition transcript was
13 reported stenographically by me, was thereafter reduced
14 to typewriting under my personal direction and
15 constitutes a true record of the testimony given and the
16 proceedings had;

17 That the said deposition was taken before me at
18 the time and place specified;

19 That I am not a relative or employee or attorney
20 or counsel, nor a relative or employee of such attorney
21 or counsel for any of the parties hereto, not interested
22 directly or indirectly in the outcome of this action.

23 IN WITNESS WHEREOF, I do hereunto set my hand
24 and affix my seal of office at Chicago, Illinois, this

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1 21st day of July, 2023.

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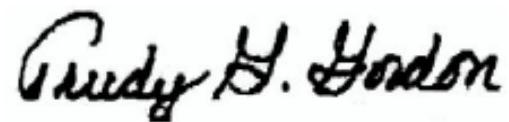
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Trudy G. Gordon

CSR No. 084-004077

[& - ahead]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
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